

HOUSE BILL 1198

By Pinion

AN ACT to amend Tennessee Code Annotated, Title 40,  
Chapter 33, Part 2, relative to forfeitures.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Section 40-33-204, is amended by deleting subsection (b) in its entirety and by substituting instead the following language:

(b) The officer making the seizure shall apply for a forfeiture warrant by filing a sworn affidavit within five (5) working days following the property seizure. The forfeiture warrant shall be based upon proof by affidavit and shall have attached to it a copy of the notice of seizure. Within five (5) working days following the filing of such sworn affidavit, a hearing shall be held, and the owner of the property shall be entitled to be heard. The hearing on the application for a forfeiture warrant also shall be recorded. It is the duty of the court to maintain the recording. Certified copies of the proceeding shall be made available to any party requesting them, and the same shall be admissible as evidence.

The affidavit in support of a forfeiture warrant shall be sworn to and state the following:

(1) The legal and factual basis making the property subject to forfeiture;

(2) If the owner or co-owner of the property was not the person in possession of the property at the time of seizure and can be determined from public records of titles, registrations or other recorded documents, the affidavit shall state with particular specificity the officer's probable cause for believing that the owner or co-owner of the property knew that the property was of a nature making its possession illegal or was being used in a manner making it subject to forfeiture as well as the legal and factual basis for forfeiture of the interest; and

(3) If the interest of a secured party with a duly perfected security interest as reflected in the public records of titles, registrations or other recorded

documents, is sought to be forfeited, the affidavit shall state with particular specificity the officer's probable cause that the secured party's interest in the property is nevertheless subject to forfeiture as well as the legal and factual basis for forfeiture of the interest.

SECTION 2. This act shall take effect July 1, 2007, the public welfare requiring it.